

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

538J0699

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1282 - 02/11/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives McCaulley, Bradford, Cutler, Haverly, Kraus, Rave, Rhoden, Schafer, Teupel, Thompson, and Weems and Senators Apa, Abdallah, and Jaspers

1 FOR AN ACT ENTITLED, An Act to prohibit recovery based on claims resulting from weight
2 gain, obesity, or a health condition resulting from long-term consumption of a qualified
3 product.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Terms used in this Act mean:

6 (1) "Livestock," cattle, bison, swine, sheep, goats, horses, ratites, and captive cervidae;

7 (2) "Livestock producer," any producer of livestock;

8 (3) "Long-term consumption," the cumulative effect of the consumption of any qualified
9 product and not the effect of a single instance of consumption;

10 (4) "Qualified product," any food or drink as defined in section 201(f) of the Federal
11 Food Drug and Cosmetic Act (21 U.S.C. § 321(f)), in effect as of January 1, 2004,
12 and specifically including meat and meat products from livestock;

13 (5) "Seller," any person or entity lawfully engaged in the business of marketing,
14 distributing, advertising, or selling a qualified product;



1 (6) "Trade association," any association or business organization that is not operated for
2 profit, if two or more members are manufacturers, marketers, distributors, livestock
3 producers, advertisers, or sellers of a qualified product.

4 Section 2. No manufacturer, seller, trade association, livestock producer, or retailer of a
5 qualified product is subject to civil liability for injury or death in any case in which liability is
6 based on the individual's weight gain, obesity, or a health condition related to weight gain or
7 obesity, and the weight gain, obesity, or health condition results from the individual's long-term
8 consumption of a qualified product.

9 Section 3. Any civil action regarding a claim as set forth in section 2 of this Act that is
10 governed by the laws of South Dakota and that is pending on the date of the enactment of this
11 Act shall be subject to the terms of this Act.

12 Section 4. This Act may be cited as the Commonsense Consumption Act.